

# UNITED STATES DISTRICT COURT

for the

Western District of North Carolina

United States of America	)	
v.	)	
JOHNNY BERNARD MILLER	)	Case No: <u>3:92CR101-1</u>
Date of Previous Judgment: <u>March 15, 1993</u>	)	USM No: <u>9987-058</u>
(Use Date of Last Amended Judgment if Applicable)	)	<u>Haakon Thorsen</u>
	)	Defendant's Attorney

## Order Regarding Motion for Sentence Reduction Pursuant to 18 U.S.C. § 3582(c)(2)

Upon motion of ☒ the defendant ☐ the Director of the Bureau of Prisons ☐ the court under 18 U.S.C. § 3582(c)(2) for a reduction in the term of imprisonment imposed based on a guideline sentencing range that has subsequently been lowered and made retroactive by the United States Sentencing Commission pursuant to 28 U.S.C. § 994(u), and having considered such motion,

**IT IS ORDERED** that the motion is:

☒ DENIED. ☐ GRANTED and the defendant's previously imposed sentence of imprisonment (as reflected in the last judgment issued) of \_\_\_\_\_ months **is reduced to** \_\_\_\_\_.

### I. COURT DETERMINATION OF GUIDELINE RANGE (Prior to Any Departures)

Previous Offense Level: <u>34</u>	Amended Offense Level: <u>34</u>
Criminal History Category: <u>VI</u>	Criminal History Category: <u>VI</u>
Previous Guideline Range: <u>262</u> to <u>327</u> months	Amended Guideline Range: <u>262</u> to <u>327</u> months

### II. SENTENCE RELATIVE TO AMENDED GUIDELINE RANGE

- ☐ The reduced sentence is within the amended guideline range.
- ☐ The previous term of imprisonment imposed was less than the guideline range applicable to the defendant at the time of sentencing as a result of a departure or Rule 35 reduction, and the reduced sentence is comparably less than the amended guideline range.
- ☒ Other (explain): No reduction in Counts One and Two as the guideline range remains unchanged due to the defendant's status as an "Armed Career Criminal" under USSG §4B1.4, which resulted in the same offense level after applying Amendment 706.

### III. ADDITIONAL COMMENTS

**\*\*The defendant also received a consecutive sentence in Count Three for a conviction of 18 U.S.C. § 924(c).**

Except as provided above, all provisions of the judgment dated March 15, 1993, shall remain in effect.

**IT IS SO ORDERED.**

Order Date: April 28, 2009

Effective Date: \_\_\_\_\_  
(if different from order date)



Graham C. Mullen  
United States District Judge

